

Offense Review

A 10-year comparison (1995-2004) of 39,401 Indian and non-Indian prison offenders in Montana shows minor differences in the most common offenses for which they were sentenced. The review, which looked at 33,352 non-Indian offenders and 6,049 Indian offenders, considered the 35 most frequent offenses (those with at least 100 occurrences over the 10 years, and deliberate homicide).

The top 10 offenses among male offenders were:

<u>Non-Indian</u>	<u>Indian</u>
1. Drug possession	Felony DUI
2. Theft	Theft
3. Drug sale	Burglary
4. Burglary	Drug possession
5. Felony DUI	Assault
6. Bad check writing	Partner/family assault
7. Forgery	Criminal endangerment
8. Criminal endangerment	Drug sale
9. Assault	Criminal mischief
10. Other drug offense	Assault w/weapon

The top 10 offenses among female offenders were:

<u>Non-Indian</u>	<u>Indian</u>
1. Drug possession	Drug possession
2. Theft	Forgery
3. Bad check writing	Theft
4. Forgery	Felony DUI
5. Drug sale	Drug sale
6. Other drug offense	Bad check writing
7. Felony DUI	Assault
8. Burglary	Burglary
9. Criminal endangerment	Assault w/weapon
10. Deceptive practices	Criminal endangerment

About 10 percent of non-Indian offenders and 13.5 percent of Indian offenders are in prison for violent crimes.

Drug offenses accounted for three of the top 10 offenses among non-Indians and two of the top 10 offenses among Indian offenders. Drug crimes represented 19 percent of offenses among non-Indians and 13 percent among Indian offenders.

Partner/family member assault is the 7th most common offense among all Indian offenders of both genders and ranks 17th among non-Indians. The offense was nearly three times more common among Indian offenders.

Aggravated assault and assault on a police officer were nearly twice as common among Indian offenders.

DUI offenses account for 6.2 percent of offenses committed by non-Indians and 9.7 percent of those committed by Indian offenders.

Manslaughter was 70 times more common for non-Indian offenders, and bad check writing was twice as common.

Sentencing Review

June 2006

The Corrections Department conducted a review of some 28,000 sentences handed down over the past 11 years, from July 1995 through April 2006. The data included 24,034 sentences for non-Indian offenders (86 percent) and 3,907 sentences given Indian offenders (14 percent).

The review looked at types of sentences given and the length of sentences handed down, allowing a limited comparison of sentences given Indian and non-Indian offenders for the same offenses. The data does not address other factors that a judge might consider in sentencing, such as criminal history or the individualized and varying circumstances of crimes.

A cautionary note: The small number of sentences for certain offenses among Indian offenders resulted in some data being skewed. The smaller the number of offenses, the greater the ability of a single sentence to have a dramatic and unrealistic effect on the data.

For example, with only one kidnapping case involving an Indian offender, the statistics for that offense showed just one net prison sentence that happened to be 100 years (1,200 months). It's statistically invalid to compare that single sentence with the average net prison sentence of about 56 months for 27 kidnapping sentences involving non-Indian offenders.

In another instance, one sentence for sexual abuse of children given an Indian offender resulted in a 20-year (240 months) net prison term. The result was a distorted comparison showing that sentence was nearly twice the average net prison term given in 42 instances involving non-Indian offenders for the same crime.

In all, nine of 37 offenses had fewer than 10 sentences given to Indian offenders, resulting in skewed comparisons in those instances. Those same offense categories averaged 43 sentences for non-Indian offenders.

Summary

- Non-Indians were more likely than Indian offenders to receive a lenient type of sentence – a deferred or suspended term – for the same crime. Conversely, Indian offenders were more likely than non-Indians to receive prison terms with some time suspended. The two groups are nearly equal in receiving prison terms without any time suspended.

time suspended for those two crimes, compared with 33 percent and 14 percent for non-Indian offenders.

Sentence length

This portion of the review looked at average sentence length by five measures: deferred, suspended, total prison term, net prison term, suspended prison term, and prison term without any portion suspended.

In each of those categories, non-Indian offenders, more often than not, received longer average sentences than Indian offenders.

Deferred sentences: The average sentence length was longer for Indian offenders for just six of the 37 crimes, and in two of those instances the difference was less than half a percentage point. The average difference was six months. On the other hand, non-Indian offenders, on average, received deferred sentences that were almost 14 months longer than those for Indian offenders for 27 offenses.

Suspended sentences: The average sentence length was longer for Indian offenders for less than a third of the offenses, 10 of 37 crimes. The average difference was nearly 49 months. On the other hand, non-Indians received suspended sentences that averaged almost 55 months longer than those given Indian offenders for 27 offenses.

Total prison term: The average sentence length was longer for Indian offenders for only seven of the 37 offenses, although one of those is the kidnapping category containing a single 1,200-month sentence for an Indian offender. Excluding that, the average difference was 113 months (about 9½ years). On the other hand, non-Indians received total prison terms that averaged 32 months longer than those given Indian offenders for 29 offenses.

Net prison term: The average sentence length was longer for Indian offenders in 16 of the 37 offense categories, again excluding the unusual kidnapping case. The average difference was 34 months. Non-Indians received net prison terms that averaged nearly 25 months longer than those given Indian offenders for 20 crimes.

Suspended prison term: The average sentence length was longer for Indians offenders for only four offenses. The average difference was 82 months. Non-Indians, on average, received suspended prison terms that were 24½ months longer than those given Indian offenders for 32 offenses.

Prison sentence with no suspension: The average length for this harshest of sentences was longer for Indian offenders for 10 of the 37 crimes, excluding the kidnapping category. The average difference was 92.6 months. Non-Indians, on average, received prison sentences without any suspension that were about 43 months longer than those given Indian offenders for 25 offenses.

Sentence Type	Indian	Non-Indian
Deferred	31%	37%
Suspended	25%	27%
Prison w/some suspended	29%	23%
Prison w/none suspended	14%	13%

Sentence Length	Indian Longer		Non-Indian Longer	
	Pct. of crimes	No. of months	Pct. of crimes	No. of months
Deferred	16%	6	73%	14
Suspended	27%	49	73%	55
Prison total	19%	113	78%	32
Net prison	43%	34	54%	25
Suspended Prison	11%	82	86%	24.5
Prison w/o suspension	27%	92.6	67%	43